

May 9, 2018

VIA E-MAIL AND U.S. MAIL

Ms. Alexis Strauss
Acting Regional Administrator
US EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

Mr. Enrique Manzanilla
Director, Superfund Division
US EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

Re: Expansion of the Motorola 52nd Street Superfund Site Boundary and Implementation of Judicially-Approved NCP Compliant Groundwater Response Action

Dear Ms. Strauss and Mr. Manzanilla:

Yesterday, we obtained a copy of the April 24, 2018 letter from Misael Cabrera, the Director of the Arizona Department of Environmental Quality (ADEQ), requesting that the United States Environmental Protection Agency (EPA) evaluate expanding the western boundary of the Motorola 52nd Street federal Superfund (M52) Site. ADEQ's letter identifies significant documents and data establishing that a continuous and unbroken TCE/PCE plume has migrated from the federal M52 Site and into the West Van Buren Area (WVBA) Water Quality Assurance Revolving Fund (WQARF) Site. The unbroken TCE/PCE plume is the largest groundwater contaminant plume in Arizona and one of the largest in the United States. Consistent with our communications with EPA over the last year, we support ADEQ's request as it will expedite necessary remediation to better protect public health, welfare and the environment to achieve applicable water quality standards and control hazardous air emissions.

As described in our prior correspondence, the groundwater contaminant plume has seriously contaminated numerous Roosevelt Irrigation District (RID) water supply wells and is causing uncontrolled releases of hazardous volatile organic compounds (VOCs) into the air of the local low income, minority community. Under applicable Arizona law, "the selected remedial action shall address, at a minimum, any well that ... would now or in the reasonably foreseeable future produce water that would not be fit for its current or reasonably foreseeable end uses [over at least the next 100 years] without treatment due to the release of hazardous substances." ARS § 49-282.06.B.4.b. RID has secured private funds through a public-private partnership structure to fully implement and operate the voluntary RID remedial actions that ADEQ has approved and a federal court has determined to be compliant with the federal National Contingency Plan (NCP). As noted by the federal judge, it is "clear that [an] extensive public and administrative review process occurred" and that "RID gave substantial thought and attention to compliance with site-specific Arizona law" and "did as a matter of law substantially comply with the applicable requirements set forth in the NCP." Although RID currently operates its wells for irrigation purposes, "all aquifers in Arizona are classified as 'drinking water protected use,' pursuant to Arizona Revised Statutes §49-224.B," as specifically noted in ADEQ's April 24, 2018 letter, and ADEQ has determined that the water supply in the WVBA WQARF Site will be needed to meet growing municipal demands, which are some of the fastest growing communities in the country.

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Since our last communication with EPA Region 9 on April 18, 2018, RID has ordered the carbon replacement for the existing wellhead treatment systems in order to restart treatment of the contaminated groundwater. RID also has secured private funds that can fully implement and operate the voluntary RID remedial actions in an expedited manner, without any financial contribution from the federal Superfund, provided EPA acknowledges that the remediation, as required at all similar groundwater remediation sites, will need to continue until applicable aquifer water quality standards or Maximum Contaminant Levels are achieved. As acknowledged by certain M52 Site parties to EPA, the ADEQ-approved and NCP-compliant RID voluntary remedial actions will not only address the groundwater contamination and hazardous air emissions within the WVBA WQARF Site, but also the VOC-contaminated groundwater migrating from the adjacent, upgradient federal M52 Site. These RID remedial actions also meet the goals of the Superfund Task Force by:


- Expediting cleanup and remediation, especially compared to and considering the adjacent and upgradient OU3 at the federal M52 Site and the immediate environmental justice issues that are present;
- Reinvigorating responsible-party cleanup, especially if long-term operation and maintenance costs for wellhead treatment can be covered by private investment and/or municipal payment;
- Encouraging private investment, especially to expedite full implementation and continued operation of the wellhead treatment systems necessary to address further expansion of the groundwater contamination and the releases of hazardous air emissions to the local community above EPA guidance and recommended screening levels;
- Promoting redevelopment and community revitalization, especially by returning the contaminated water supply to its maximum beneficial use as a drinking water supply to enhance economic development; and
- Engaging partners and stakeholders, especially since the remediation has been pursued under a public-private partnership that has been approved by the State after significant community involvement and determined by a federal district court to be NCP-compliant.

This is a truly unique remedial action that uses private funds to restore groundwater in the largest contaminated site in the State and protect the low income, minority community from further exposure to harmful VOCs as the site cleanup progresses, while creating economic development that can in turn pay for the ongoing cost of the groundwater cleanup. We would appreciate the opportunity to discuss the expansion of the western boundaries of the federal M52 Site and full implementation and operation of RID's voluntary remedial actions at your earliest convenience in hopes you will recognize and support expediting RID's remedial actions.

Very truly yours,

GALLAGHER & KENNEDY, P.A.

By:


David P. Kimball, III

DPK/sgl
6604245/21982-0001

cc: Administrator Scott Pruitt

GK